

**We The People, Classroom Law Project**  
**Commissioner Nick Fish Keynote**  
**January 5, 2017**

Thanks to Lake Oswego High School for once again hosting this event; to Barbara Rost and the rest of the team at the Classroom Law Project for organizing another great program. And, to the coaches, teachers and family members for supporting these remarkable young people.

Let me begin tonight with some statements from a presidential election that may go down as the most divisive in our nation's history. Here is what one candidate said of his opponent:

- ***“If he were to become the president, “we would see our wives and daughters the victims of legal prostitution.”***
- ***“Murder, robbery, rape and incest will all be openly taught and practiced....”***

Now there's a campaign tweet to remember. The opponent responded in kind:

- ***He's a lying, warmongering fellow; a "repulsive pedant" and "gross hypocrite" who “behaved neither like a man nor like a woman but instead possessed a hideous hermaphroditical character.”***

Pretty awful...right?

As the students of history in this room know, these statements are from the bitter election of 1800. It featured two heavyweights: John Adams vs. Thomas Jefferson.

Think of it.

Barely 11 years after the ratification of the Constitution, two of the great architects of our democratic republic were having a loud, vitriolic and personal fight about the future of our country. Some things never change. So fast forward...

What we witnessed during the dismal 2016 election isn't an aberration after all. It's the continuation of a loud and rancorous debate, as old as the republic, about the meaning and application of our Constitution. We all know we are living in challenging times.

America is more divided than ever before. Our public debates are getting coarser, while civility and tolerance are casualties in our partisan battles. But my role tonight is to not discourage you. To the contrary, I am here to reassure you that even in these difficult times, we are in good hands.

I am not talking about the President or the Congress.

No, I find my greatest solace in a document which has endured for over 228 years – *and in each of you.*

The students in this room understand better than most Americans the bedrock stability of our Constitution.

Let's start where every new administration begins – with the presidential oath of office.

On January 20, Mr. Trump will place his hand on a bible and take the following oath: "I do solemnly swear (or affirm) that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States."

This is the genius of our system--no president is above the law.

Let's take a few minutes to anticipate the new President's first 100 days and what the Constitution has to say.

For starters, Mr. Trump has promised to revoke most of President Obama's executive orders. I am guessing that no one in this room will lose any sleep if he does.

Why? Because nothing in Article II says he can't. But this is the low hanging fruit. Things will only get more interesting.

Let's consider two other actions the President-elect has said he would take.

During the campaign, there was a lot of loose talk about Muslim bans, registries and even camps.

What *you know* is that the first line of defense against these shocking proposals is the Establishment Clause of the 1<sup>st</sup> Amendment.

The government is prohibited from disapproving or favoring *any* religion.

Under the due process and equal protection clause of the 5<sup>th</sup> Amendment, the government may not banish or prohibit a citizen's entry into the United States.

Under the 14<sup>th</sup> Amendment's Equal Protection Clause, the government may not target anyone because of their religion.

Are you starting to see the picture here?

Let's move to another hot-button issue.

Mr. Trump does not think much of the media, and he has threatened to "open up our libel laws."

You know that is not likely to happen any time soon.

First of all, most legal claims for libel are adjudicated at the state level.

Second, the Supreme Court, in *NY Times v. Sullivan*, interpreting the First Amendment, ruled that a public person must prove "actual malice" to make out a libel claim.

So unless the high court reverses a 50-year precedent, or the states pass a Constitutional amendment, our new President will have little success in "opening up our libel laws."

Looking forward, in the battle between the president and the Constitution, I wouldn't bet against the Constitution. Still...we must remain vigilant.

That's why I carry a copy of the Constitution with me.

Last fall, I was honored to meet Mr. Khizr Khan. He signed this copy and gave it to me.

You remember him, he was the Gold Star father who electrified the nation with his appearance at the Democratic National Convention.

What a beautiful statement about our country—a Muslim-American, an immigrant from Pakistan, reminding all Americans that the Constitution applies to every one of us, equally.

None of us should ever underestimate the core beliefs that ultimately bind together Americans of all political persuasions.

Bernie supporters and Tea Party activists...conservative legislators and card carrying members of the ACLU are all, in the end, defenders of the Constitution.

In Federalist 1, Alexander Hamilton wrote ***“... of those men who have overturned the liberties of republics, the greatest number have begun their career by paying an obsequious court to the people; commencing demagogues, and ending tyrants.”***

I can think of no time when the “We The People” competition was more relevant.

The young people in this room are not merely students of the Constitution, but, more importantly, you are its newest defenders.

You know the Constitution and the intent of the founders better than most.

You are precisely the engaged and enlightened citizens the authors of the Constitution had in mind as they dipped quill pens into inkwells.

John Adams once said, ***“Liberty cannot be preserved without general knowledge among the people.”***

Students... He was talking about you.

We look to you to reach out across the ideological divides of the moment and to find common ground with others.

And the place to start is our Constitution.

You’ve taken the first important step. Don’t stop now. We are counting on you!

Thank you, and congratulations.

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